

Atty. Docket No.: CSHE.P001

Patent

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REMARKS

Claim 59-67, 71, and 78-82 are pending the application. Claims have been amended. Claim 71 has been canceled herein without prejudice. Claim 83 has been added herein. No new matter is added by claim 83. No claims have been allowed.

Objection to the specification under 35 U.S.C. § 112

The specification was objected to under 35 U.S.C. § 112, first paragraph as failing to support the subject matter set forth in the claims. Applicants respectfully submit that this objection is not proper because if it is true that the claims are not supported by the specification it is not possible to add new matter by amendment to the specification such as to support the claims. Applicants further submit that this objection is superfluous in view of the claim rejection under the same U.S. Code section. Reference MPEP § 706.03(c), which states that "Form paragraphs 7.30.01 and 7.30.02 are to be used ONLY ONCE in a given Office action."

While Applicants do not concede that the claims are not supported by the specification as filed, Applicants have amended the claims to eliminate the indicated language. Therefore, the objection, if proper, is moot. Applicants respectfully request withdrawal of the objection.

Rejection under 35 U.S.C. § 112, first paragraph

Claims 59-67, 71, and 78-82 were rejected under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement. Although the Office action is not clear because specific claim language is singled out in the objection to the specification rather than in the rejection of the claims, in order to obviate the rejection, Applicants have amended the claims to eliminate the language indicated in the objection to the specification. Therefore, Applicants respectfully request withdrawal of the rejection.

Rejection under 35 U.S.C. § 112, second paragraph

Claim 71 was rejected under 35 U.S.C. § 112, second paragraph as being

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indefinite. Applicants have canceled claim 71 in favor of new claim 83. Claim 83 is in accordance with the Examiner's suggestion that claim 71 be rewritten as a dependent claim. Applicants respectfully submit that claim 83 is fully compliant with 35 U.S.C. § 112, second paragraph. The withdrawal of the rejection is respectfully requested.

Rejection under 35 U.S.C. § 103

Claims 59-67, 71 and 78-82 were rejected under 35 U.S.C. § 103(a), as being unpatentable over Musmanno (U.S. Patent 4,346,442) in view of Frank et al. (U.S. Patent 6,240,339, hereinafter "Frank"). Claim 71 has been canceled without prejudice. Applicants respectfully submit that the invention of claims 59-67, and 78-83 would not have been obvious to one of ordinary skill in the art in view of the cited references.

Musmanno discloses:

Data processing for an improved securities brokerage/cash management system supervises, implements and coordinates a margin securities brokerage account; participation in one or more short term money market or comparable funds; and subscriber-initiated use of electronically responsive subscriber identity credit/debit media and/or checking systems. Subscriber expenditures, effected as by "charge card" use, check and/or cash advance are applied on a hierarchal basis, seriatim, against the subscriber's free credit balance, short term investment and the lendable equity in his securities account. On a periodic basis, e.g., daily, received card charges, check, securities and deposit transactions for the ensemble of account participants are verified and employed to compute an updated credit limit for each subscriber. The transactional data is reviewed against predetermined norms to detect abuses such as check kiting. The short term investment position of each account is modified as necessary to permit money market or comparable earned yields on the account free credit cash balance.

(Abstract).

Musmanno is limited to teaching a system offered to subscribers by a single financial institution which manages several subscriber accounts. The disclosure is strictly concerned with the manner of managing those subscriber accounts within the financial institution. Transfers of funds between accounts, for example from a cash account to another account for purchasing securities, is only disclosed within the group of accounts held at the institution.

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Musmanno states: "At the kernel of the overall system is a margin brokerage account in which each customer may effect the usual diverse array of securities and related transactions--e.g., those offered by a full service brokerage house". (column 2, lines 1-4).

Further: "As a second facet, there is at least one and in general a plurality of vehicles for short term investment of funds, e.g., pooled trusts." (column 2, lines 5-7).

Finally: "The third and final aspect of the instant system arrangement comprises a transaction ("charge") card and a checking account. The transaction card is usable at the subscriber's sole discretion, under his control, to charge goods and services offered by those accepting the charge card. The charge card may be independent or may be affiliated with some charging system, e.g., the well known "VISA" charge system. The bank checks require no explanation and are simply payment orders drawn against the bank. They are not drawn against any repository if funds maintained at the bank. Rather, as below discussed, checks are satisfied from the subscriber's free credit balance, money market position or his securities margin account. (column 2, lines 31, emphasis added).

The above description of the Musmanno system teaches a product offered by a single financial institution to subscribers who set up a set of accounts under management within the institution. The underlined passage above: "checks are satisfied from the subscriber's free credit balance, money market position or his securities margin account" more specifically indicates that no funds are transferred between institutions according to Musmanno. On the contrary, Musmanno teaches away from a financial management system communicating with another institution.

In contrast to Musmanno, claim 59 recites a financial management system coupled via a network to a first financial institution. Claim 59 further recites obtaining account information from the first and second accounts using access information provided by an account holder, comprising accessing each of the first and second financial institutions separately via the network. Musmanno fails to teach or suggest at least these limitations. Applicants reiterate that Musmanno teaches away from a

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financial management system communicating with more another or more than one institution by teaching a securities brokerage-cash management completely within one institution.

Applicants respectfully assert that Musmanno clearly did not contemplate, disclose, or teach any system other than a system within a single institution that manages a subscribers accounts within the institution. This assertion is supported by the public court record of a patent suit involving Musmanno (Painc, Webber, Jackson & Curtis, Inc. v. Merrill Lynch, Pierce, Fenner & Smith, Inc. v. Dean Witter Reynolds, Inc. U.S. District Court District of Delaware May 27, 1983, As Amended June 21, 1983, 564 F.Supp. 1358, 218 USPQ 212). The record states that Musmanno is directed to a product called the Cash Management Account (CMA) offered by Merrill Lynch, et al.

In 1977 Merrill Lynch offered to the public the Cash Management Account program ("CMA") which combined three financial services commonly offered by financial institutions and brokerage houses and included a brokerage security account (the "Securities Account"), several money market funds (the "Money Market Fund"), and a charge/-checking account (the "Visa Account"). The Securities Account, the primary component of the CMA program, is a conventional Merrill Lynch margin account which may be used to purchase and sell securities and options on margin or on a fully-paid basis. It is maintained pursuant to the rules and regulations of the Securities and Exchange Commission, the Board of Governors of the Federal Reserve System, the New York Stock Exchange, and the National Association of Securities Dealers, Inc. As is the case with conventional margin account, the customer of the CMA pays normal brokerage fees for securities transactions in the Securities Account. (D.I. 13A, CMA Money Trust Prospectus at 2.)

This same record further states:

The '442 patent application was filed in the United States Patent Office on July 29, 1980 asserting twelve claims for a "Securities Brokerage-Cash Management System." With the application, Merrill Lynch notified the Patent Office that a portion of the system had been used and had been described in the CMA Money Trust-Prospectus, dated August 25, 1978 and a brochure distributed by Merrill Lynch entitled "Merrill Lynch Cash Management Account," published October 1978 by Merrill Lynch ...

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Applicants present these portions of the above-reference case record to support their assertion that Musmanno is lacking any teaching or suggestion of a financial management system that is coupled to a first financial institution via a network, or obtaining account information from the first and second accounts using access information provided by an account holder, comprising accessing each of the first and second financial institutions separately via the network.

Applicants further submit that Frank does not supply the deficiencies of Musmanno. In addition, one of ordinary skill in the art would not have found any motivation to combine these references to arrive at a method as claimed. Frank discloses a computer program that is installed on a user computer. The user enters the required information manually and the program crunches the information according to various algorithms (e.g., a Monte Carlo simulation or a Genetic Algorithm, see column 7, line 33-column 8, line 35). There is no teaching whatsoever in Frank regarding a financial management system that interacts with a financial institution in any way or is even administered or executed by a financial institution. Further, there is absolutely no teaching in Frank regarding communicating with any financial institution via a network.

For all of these reasons, one of ordinary skill would not be motivated to make the suggested combination to arrive at the claimed invention.

Further, the suggested combination does not yield the claimed invention. Frank merely sets out algorithms to deal with raw data that is entered by a user and fed to the algorithm (see for example, column 7, lines 22-32). This does not supply the deficiencies of Musmanno as noted above.

Therefore, Applicants respectfully submit that claim 59 and its dependent claims 60-67 and 78-82 would not have been obvious in view of the cited references.

Claim 83 includes limitations similar to the limitations of claim 59, which are distinguished from the references by the remarks above. Therefore, Applicants respectfully submit that claim 83 would not have been obvious in view of the cited

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references for the same reasons given with reference to claim 59.

CONCLUSION

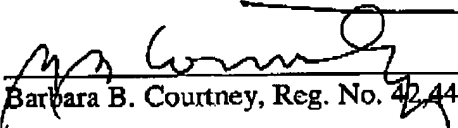
In view of the foregoing amendments and remarks, Applicants respectfully submit that claims 59-67, and 78-83 are in condition for allowance. The allowance of the claims is earnestly requested. The Examiner is invited to call the undersigned if there are any issues that remain to be resolved prior to allowance of the claims.

AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT

Please charge deposit account 503616 for any fees due and not already paid herewith.

Respectfully submitted,
Courtney Staniford & Gregory LLP

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